

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

ROBERT MICHAEL McHALE,

Petitioner,

v.

MARK NOOTH,

Respondent.

Case No. 2:11-cv-00517-SU

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Patricia Sullivan issued a Findings and Recommendation in this case on December 18, 2014. Dkt. 80. Judge Sullivan recommended that Petitioner’s habeas corpus petition be denied. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, however, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the

Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Nor does the Act "preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. And the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings and recommendations for "clear error on the face of the record."

As no party has made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Sullivan's Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Sullivan's Findings and Recommendation, Dkt. 80. Petitioner's habeas corpus petition (Dkt. 2) is DENIED and this proceeding is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 24th day of January, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge